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EXAMINER	
LUU, CUONG V	

ART UNIT	PAPER NUMBER
2128	

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/044,217	ZEIDMAN, ROBERT M.	
	Examiner	Art Unit	
	Cuong V. Luu	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-8,13,14,18 and 25-63* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *17,18 and 57-63* is/are allowed.

6)☒ Claim(s) *1,2,5-14,25-36 and 37-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-2, 5-14, 17-18, and 25-63 are pending. Claims 3-4, 15-16, 19-24 have been canceled. Claims 25-63 have been added. Claims 1-2, 5-14, 17-18 and 25-63 have been examined. Claims 17-18 and 57-63 have been indicated allowable provided a Terminal Disclaimer is filed due to the Double Patenting rejections. Claims 1-2, 5-14, 25-36, and 37-56 have been rejected.

Response to Arguments

1. Applicant's arguments with respect to claims 1-2, 5-14, 17-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 1 is objected to because of the following informalities:

   Claim 1 appears to be incomplete with a semicolon at the end of limitation (b). For the purpose of examining the claim, the examiner considers it end at the end of limitation (b). Appropriate correction is required.

3. Claims 37 and 47 are objected to because of the following informalities:

   3.1. As per claim 37, the inventor recites "A method for connecting a simulation of an electronic device to a network". Simulation is an abstract word describing an act of simulating, not a physical device, so it cannot be connected to a network.

   3.2. As per claim 47, the inventor recites "A method for connecting a simulation of an electronic device to a network". Simulation is an abstract word describing an act of simulating, not a physical device, so it cannot be connected to a network.

   Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2, 5-14, 17-18, and 25-63 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5-13, and 17-19 of U.S. Patent No. 7,050,962 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because

4. Claim 1 of patent # 7,050,962 B2 contains every element of claims 1, 25 of the instant application and thus anticipates the claims of the instant application.

5. Claim 1 of patent # 7,050,962 B2 contains every element of claims 2, 26 of the instant application and thus anticipates the claim of the instant application.

6. Claim 5 of patent # 7,050,962 B2 contains every element of claims 5, 27 of the instant application and thus anticipates the claim of the instant application.

7. Claim 6 of patent # 7,050,962 B2 contains every element of claims 6, 28 of the instant application and thus anticipates the claim of the instant application.

8. Claim 7 of patent # 7,050,962 B2 contains every element of claims 7, 29 of the instant application and thus anticipates the claim of the instant application.

9. Claim 8 of patent # 7,050,962 B2 contains every element of claims 8, 30 of the instant application and thus anticipates the claim of the instant application.

10. Claim 9 of patent # 7,050,962 B2 contains every element of claims 9, 31 of the instant application and thus anticipates the claim of the instant application.

11. Claim 10 of patent # 7,050,962 B2 contains every element of claim 10, 32 of the instant application and thus anticipates the claim of the instant application.

12. Claim 11 of patent # 7,050,962 B2 contains every element of claim 11, 33 of the instant application and thus anticipates the claim of the instant application.

13. Claim 12 of patent # 7,050,962 B2 contains every element of claim 12 of the instant application and thus anticipates the claim of the instant application.

14. Claim 13 of patent # 7,050,962 B2 contains every element of claims 14, 36 of the instant application and thus anticipates the claim of the instant application and as such is unpatentable over obvious-type double patenting.

15. Claim 17 of patent # 7,050,962 B2 contains every element of claims 17, 57, and 59 of the instant application and thus anticipates the claim of the instant application.

16. Claim 18 of patent # 7,050,962 B2 contains every element of claims 18, 58, 60, 61, 62, and 63 of the instant application and thus anticipates the claim of the instant application.

17. Claim 19 of patent # 7,050,962 B2 contains every element of claims 37, 47 of the instant application and thus anticipates the claims of the instant application.

18. Claim 19 of patent # 7,050,962 B2 contains every element of claims 38 and 48 of the instant application and thus anticipates the claims of the instant application.

19. Claims 19 and 5 of patent # 7,050,962 B2 contain every element of claims 39 and 49 of the instant application and thus anticipate the claims of the instant application.

20. Claims 19 and 6 of patent # 7,050,962 B2 contain every element of claims 40 and 50 of the instant application and thus anticipate the claims of the instant application.

21. Claims 19 and 7 of patent # 7,050,962 B2 contain every element of claims 41 and 51 of the instant application and thus anticipate the claims of the instant application.

22. Claims 19 and 8 of patent # 7,050,962 B2 contain every element of claims 42 and 52 of the instant application and thus anticipate the claims of the instant application.

23. Claims 19 and 9 of patent # 7,050,962 B2 contain every element of claims 43 and 53 of the instant application and thus anticipate the claims of the instant application.

24. Claims 19 and 10 of patent # 7,050,962 B2 contain every element of claims 44 and 54 of the instant application and thus anticipate the claims of the instant application.

25. Claims 19 and 11 of patent # 7,050,962 B2 contain every element of claims 45 and 55 of the instant application and thus anticipate the claims of the instant application.

26. Claims 19 and 12 of patent # 7,050,962 B2 contains every element of claim 46 of the instant application and thus anticipates the claims of the instant application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 5-14, 25, 26-56 are rejected under the second paragraph of 35 U.S.C. 112.

27. Regarding claims 1 and 37 the phrases "receiving data packets designating the electronic device" and "transmitting the data packets" render the claim indefinite because it is unclear as what the electronic device is designated and because it is unclear as which device

receives the data packets and transmits the data packet. Also the phrase For the purpose of examining this claim, the examiner interprets "receiving data packets designating the electronic device" and "transmitting the data packets" as the host computer receiving data packets designating the electronic device as the source and transmits the data packets. See MPEP § 2173.05(d).

28. Claims 2 and 5-14 inherit the defects of claim 1.

29. Regarding claims 25 and 47 the phrase "receiving data packets" and "transmitting the data packets" render the claim indefinite because it is unclear as which device receives the data packets and transmits the data packet. For the purpose of examining this claim, the examiner interprets "receiving data packets" as the host computer receiving data packets designating the electronic device as the source and transmits the data packets. See MPEP § 2173.05(d).

30. Claims 26-36 inherit the defects of claim 25.

31. Claims 38-46 inherit the defects of claim 37.

32. Claims 48-56 inherit the defects of claim 47.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 34 and 56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

33. Claims 34 and 56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim recites, "Modifying includes inserting a preamble in a data packet". This clause makes it fail the enablement requirement since nowhere in the specification can it be found to support "inserting preamble in a data packet".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 25-26, 37-38, and 47-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al (U.S. Patent 6,389,379 B1).

34. As per claim 1, Lin et al teach a method for simulating an electronic device that interacts with a network, the simulation being carried out by a program executing in a host computer,

the simulation includes simulating the electronic device's interaction with the network (col. 22, lines 13-18), the method comprising:

(a) receiving data packets designating the electronic device from the network through a network interface (col. 11, lines 40-44); and

(b) transmitting the data packets to the simulation through a software interface to provide data packets for simulating the electronic device's interaction with the network (col. 11, lines 40-44).

35. As per claim 2, Lin et al teach storing the data packets received from the network in a buffer allocated in the memory of the host computer (col. 29, lines 62-67).

36. As per claim 25, these limitations have already been discussed in claim 1. They are, therefore, rejected for the same reasons.

37. As per claim 26, these limitations have already been discussed in claim 2. They are, therefore, rejected for the same reasons.

38. As per claim 37, it is different to claim 1 only that a computer readable medium having computer instructions to perform in a computer. The host system is a computer. It, of course needs instructions to perform tasks in this claim, and this host has memory, which is a computer readable medium to carry out these tasks. This claim is, therefore, rejected.

39. As per claim 38, these limitations have already been discussed in claim 2. They are, therefore, rejected for the same reasons.

40. As per claim 47, it is different to claim 1 only that a computer readable medium having computer instructions to perform in a computer. The host system is a computer. It, of course needs instructions to perform tasks in this claim, and this host has memory, which is a computer readable medium to carry out these tasks. This claim is, therefore, rejected.

41. As per claim 48, these limitations have already been discussed in claim 2. They are, therefore, rejected for the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 27, 39 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al as applied to claims 2, 26, 37 and 47 above, and further in view of Gagne et al (U.S. Patent 5303347).

42. As per claim 5, Lin et al do not teach changing the size of the first buffer at run time.

However, Gagne et al teach this feature (col. 5, lines 64-68).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al, and Gagne et al. Gagne et al's teaching of changing the size of the first buffer at run time would have helped users store different sizes of data important to the simulation of electronic devices.

43. As per claim 27, these limitations have already been discussed in claim 1. They are, therefore, rejected for the same reasons.

44. As per claim 39, these limitations have already been discussed in claim 1. They are, therefore, rejected for the same reasons.

45. As per claim 49, these limitations have already been discussed in claim 1. They are, therefore, rejected for the same reasons.

Claim 6, 28 and 40, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al as applied to claims 2, 26 and 37 above, and further in view of Lakshman (IEEE/ACM Transaction on Networking, Vol. 5, No. 3, June 1997).

46. As per claim 6, Lin et al do not teach discarding packets of data when the first buffer is full.

However, Lakshman teaches discarding packets when buffer is full (p. 337, col. 2, lines 21-23).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Lakshman. Lakshman's teaching of discarding packets when buffer is full would have helped reduce resource and time for monitoring buffer and prevent overwriting old data that are in use with new data.

47. As per claim 27, these limitations have already been discussed in claim 6. They are, therefore, rejected for the same reasons.

48. As per claim 40, these limitations have already been discussed in claim 6. They are, therefore, rejected for the same reasons.

49. As per claim 50, these limitations have already been discussed in claim 1. They are, therefore, rejected for the same reasons.

Claim 7-9, 29-31, 41-43, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al as applied to claims 2, 25, 37, 47 above, and further in view of Watanabe et al (U.S. Patent 5,761,486).

50. As per claim 7, Lin et al do not teach keeping a record of the data packets received from the network, the data packets transmitted to the simulation, the data packets received from the simulation; and the data packets transmitted to the network.

However, Watanabe et al teach these features (col. 5, lines 66-67, col. 6, lines 1-12).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Watanabe et al. Watanabe et al's teachings of keeping a record of the data packets received from the network, the data packets transmitted to the simulation, the data packets received from the simulation, and the data packets transmitted to the network would have provided designers information of the simulation in order to analyze and evaluate the simulation of electronic devices.

51. As per claim 8, Lin et al do not teach displaying the record.

However, Watanabe et al teach these features (col. 10, lines 41-46).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Watanabe et al. Watanabe et al's displaying the record on a screen would visually have provided designers information so that they could conveniently have viewed and analyzed information.

52. As per claim 9, Lin et al do not teach storing the record in a file.

However, Watanabe et al teach this feature (col. 6, lines 13-18).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Watanabe et al. Watanabe et al's storing the record in a file would have helped designers to store information for use later as needed.

53. As per claim 29, these limitations have already been discussed in claim 7. They are, therefore, rejected for the same reasons.

54. As per claim 30, these limitations have already been discussed in claim 8. They are, therefore, rejected for the same reasons.

55. As per claim 31, these limitations have already been discussed in claim 9. They are, therefore, rejected for the same reasons.

56. As per claim 41, these limitations have already been discussed in claim 7. They are, therefore, rejected for the same reasons.

57. As per claim 42, these limitations have already been discussed in claim 8. They are, therefore, rejected for the same reasons.

58. As per claim 43, these limitations have already been discussed in claim 9. They are, therefore, rejected for the same reasons.

59. As per claim 51, these limitations have already been discussed in claim 7. They are, therefore, rejected for the same reasons.

60. As per claim 52, these limitations have already been discussed in claim 8. They are, therefore, rejected for the same reasons.

61. As per claim 53, these limitations have already been discussed in claim 9. They are, therefore, rejected for the same reasons.

Claims 10, 32, 44, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al as applied to claims 1, 25, and 47 above, and further in view of Chu et al (ACM, 0-89791-089-3/83/0300-0170, 1983).

62. As per claim 10, Lin et al do not teach recording the throughput of the data packets.

However, Chu et al teach this feature (p. 171, col. 2, paragraph 5, lines 1-6).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Chu et al. Chu et al's teaching of recording the throughput of the data packets would have provided designers performance statistics of devices under simulation to make decisions about modification, re-design, or adjustment regarding the those devices.

63. As per claim 32, these limitations have already been discussed in claim 10. They are, therefore, rejected for the same reasons.

64. As per claim 44, these limitations have already been discussed in claim 10. They are, therefore, rejected for the same reasons.

65. As per claim 54, these limitations have already been discussed in claim 10. They are, therefore, rejected for the same reasons.

Claims 11-12, 33, 45-46, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al as applied to claims 1, 25, 37, and 47 above, and further in view of Nicol (U.S. Patent 6757367B1).

66. As per claim 11, Lin et al do not teach modifying the packets.

However, Nicol teaches this feature (col. 24, lines 35-39).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Petersen et al and Nicol. Nicol's teaching of modifying the packets would have made packets suitable for receipt by the network (col. 24, lines 35-39).

67. As per claim 12, Lin et al do not teach modifying includes removing a preamble from a data packet.

However, Nicol teaches this feature (col. 24, lines 35-39).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Nicol. Nicol's teaching of modifying includes removing a preamble from a data packet would have made packets suitable for receipt by the network (col. 24, lines 35-39).

68. As per claim 33, these limitations have already been discussed in claim 11. They are, therefore, rejected for the same reasons.

69. As per claim 45, these limitations have already been discussed in claim 8. They are, therefore, rejected for the same reasons.

70. As per claim 46, these limitations have already been discussed in claim 9. They are, therefore, rejected for the same reasons.

71. As per claim 55, these limitations have already been discussed in claim 11. They are, therefore, rejected for the same reasons.

Claims 13-14 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al as applied to claims 1 and 25 above, and further in view of Hrischuk et al (U.S. Appl. 08/937,023).

72. As per claim 13, Lin et al do not teach the receiving data from the network and transmitting data packets to the simulation are executed in a single thread.

Hrischuk et al teach this limitation (p. 30, line 3; p. 44, lines 16-19; p. 48, lines 23-27).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Hrischuk et al. Hrischuk et al's teaching would have determined causality of information stored during concurrent and distributed software process execution (p. 1, Field of Invention).

73. As per claim 14, Lin et al do not teach the receiving data from the network is executed in a first thread and transmitting data packets to the simulation is executed in a second thread.

Hrischuk et al teach this limitation (p. 44, lines 16-19; p. 48, lines 23-27).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Lin et al and Hrischuk et al. Hrischuk et al's teaching would have determined causality of information stored during concurrent and distributed software process execution (p. 1, Field of Invention).

74. As per claim 35, the reasons for indication of allowable subject matter have already been discussed in claims 13, respectively.

75. As per claim 36, the reasons for indication of allowable subject matter have already been discussed in claim 14, respectively.

Allowable Subject Matter

Claims 17-18 and 57-63 are indicated allowable provided a Terminal Disclaimer is filed due to the Double Patenting rejections. The following is a statement of reasons for allowance:

76. As per claims 17-18 and 57-63, they are allowable because there is not any prior art teaching the steps to perform the testing of a system for connecting an electronic device under simulation to a network, wherein the simulation is to be carried out by software in a computer as recited in the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong V. Luu whose telephone number is 571-272-8572. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah, can be reached on 571-272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. An inquiry of a general nature or relating to the status of this application should be directed to the TC2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CVL

KAMINI SHAH
SUPERVISORY PATENT EXAMINER